

Human Services Board, John Bushee, Alicia Moyer, and Christina Byrom

Daniel Jerman, Hearing Officer

June 3, 1996

Fair Hearing No. 14,323

INTRODUCTION

The petitioner appeals the Decision by the Department of Social Welfare denying medicaid coverage for a room air conditioner. The issue is whether this item is covered as "durable medical equipment" within the meaning of the pertinent regulations.

PROPOSED FINDINGS OF FACT

The facts are not in dispute. The petitioner suffers from severe pulmonary problems. His condition is detailed in the following letter from his treating physician:

[Petitioner] is a long term patient of mine dating back to 1987. He is diagnosed with Chronic Obstructive Pulmonary Disease, mild Congestive Heart Failure, and Aspergillosis.

Due to [petitioner's] medical illnesses, I feel that he is an excellent candidate to receive an air-conditioner unit. [Petitioner], as most pulmonary patient's, experiences difficulty in breathing due to hot, humid climate. Providing him with a unit with reduce the number of episodes he had during the Spring/Summer months.

The petitioner states that he has required several hospitalizations due to his illnesses and that because an air conditioner should prevent or diminish the frequency of such hospitalizations, its purchase should prove to be cost effective to the Department.

RECOMMENDATION

The Department's decision should be affirmed.

REASONS

The medicaid regulations regarding "durable medical equipment" are reproduced below.

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Air conditioners do not appear on the "all-inclusive" list of covered items in § M841, supra, and are given as a specific "example" in that regulation of items that are "never covered".

The petitioner's point about the probable cost effectiveness of covering this item is certainly well taken; and the Board has frequently commented that the Department might well be advised to reconsider its regulations to take evidence of cost effectiveness into account in determining whether certain items should be covered under medicaid. As written, however, the regulations are clear--this item is not covered.

Inasmuch as the board does not have the legal authority to law reverse decisions of the Department that are in accord with the applicable law, the Department's decision in this matter must be affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

THIS MATTER WILL BE CONSIDERED BY THE BOARD AT A MEETING IN MONTPELIER ON WEDNESDAY, JUNE 12, 1996. THE MEETING WILL BE HELD AT THE NATIONAL LIFE INSURANCE COMPANY - NORTH BUILDING (SEE ATTACHED MAP), IN THE TRANSPORTATION/MAINTENANCE CONFERENCE ROOM, 4TH FLOOR, AND WILL BEGIN AT 9:30 A.M., ALL VISITORS ARE REQUIRED TO SIGN IN AT THE FRONT DESK AS THEY COME INTO THE BUILDING. DIRECTIONS TO THE CONFERENCE ROOM WILL BE PROVIDED BY THE RECEPTIONIST AT THE FRONT DESK.